

**Zoning Public Hearing  
CITY OF AUSTIN  
RECOMMENDATION FOR COUNCIL ACTION**



**AGENDA ITEM NO.: Z-8  
AGENDA DATE: Thu 06/24/2004  
PAGE: 1 of 1**

**SUBJECT:** C14H-04-0002 – Ocie Speer House. Conduct a public hearing and approve an ordinance amending Chapter 25-2 of the Austin City Code by rezoning property locally known as 108 W. 33rd Street from Family Residence (SF-3) district to Family Residence – Historic (SF-3-H) combining district zoning. Historic Landmark Commission Recommendation: To grant Family Residence - Historic (SF-3-H) combining district zoning. Planning Commission Recommendation: To grant Family Residence - Historic (SF-3-H) combining district zoning. Applicant: Clarke and Joan Burnham (owners). City Staff: Steve Sadowsky, Historic Preservation Office, Transportation, Planning and Sustainability Department, 974-6454.

**REQUESTING DEPARTMENT:** Transportation, Planning and Sustainability

**DIRECTOR'S AUTHORIZATION:** Austan Librach

**ZONING CHANGE REVIEW SHEET**

**CASE NUMBER:** C14H-04-0002

**H.L.C. DATE:** February 23, 2004

**P.C. DATE:** March 23, 2004

**AREA:** 12,000 square feet

**APPLICANT:** Clarke and Joan Burnham, owners      **AGENT:** NA

**HISTORIC NAME:** Ocie Speer House

**WATERSHED:** Waller Creek

**ADDRESS OF PROPOSED ZONING CHANGE:** 108 W. 33<sup>rd</sup> Street

**ZONING FROM:** SF-3

**ZONING TO:** SF-3-H

**SUMMARY STAFF RECOMMENDATION:** Staff recommends the proposed zoning change from single family residence (SF-3) district to single family residence-historic (SF-3-H) combining district zoning.

**HISTORIC LANDMARK COMMISSION ACTION:** Recommended the proposed zoning change from family residence (SF-3) district to family residence-historic (SF-3-H) combining district zoning, by consent. (Vote: 7-0; Fowler, Laky and Leary absent).

**PLANNING COMMISSION ACTION:** Recommended the proposed zoning change from family residence (SF-3) district to family residence-historic (SF-3-H) combining district zoning, by consent. (Vote: 7-0).

**DEPARTMENT COMMENTS:**

The house is listed in the Comprehensive Cultural Resources Survey (1984) but without a preservation priority ranking. The house is located in the North University Neighborhood Association Planning Area.

**CITY COUNCIL DATE:** June 24, 2004

**ACTION:**

**ORDINANCE READINGS:** 1<sup>ST</sup>    2<sup>ND</sup>    3<sup>RD</sup>

**ORDINANCE NUMBER:**

**CASE MANAGER:** Steve Sadowsky

**PHONE:** 974-6454

**NEIGHBORHOOD ORGANIZATION:**

North University Neighborhood Association

**BASIS FOR RECOMMENDATION:**

The ca. 1926 Ocie Speer House was built by noted Austin architect Edwin Kreisle for Ocie Speer (1869-1959), a lawyer, judge, and legal scholar. The house is an excellent example of the Spanish Colonial Revival style, very popular in the 1920s.

The Ocie Speer House meets Historic Landmark Designation Criteria 1, 3, 4, 6, 9, 11, and 12.

***(1) Character, interest, or value as part of the development, heritage or cultural characteristics of the City of Austin, State of Texas, or the United States.***

The ca. 1926 Ocie Speer House represents the 1920s development of Aldridge Place, an upper middle-class suburb of the city. Aldridge Place, planned in the 1910s, features the curvilinear streets, small parks, and houses with architectural style, all hallmarks of the City Beautiful movement of the early twentieth century. The house and neighborhood represent a transformation of Austin as a city with a dense urban core to a city with suburbs with pleasantries and amenities designed to lure the upper classes out of downtown.

***(3) Embodiment of distinguishing characteristics of an architectural type or specimen.***

The Ocie Speer House is an excellent example of the Spanish Colonial Revival style, popular as were many "period" styles in the 1920s. The house features stucco walls, exterior chimney, low-pitched red tile roof, and the asymmetrical façade which characterize the style.

***(4) Identification as the work of an architect or master builder whose individual work has influenced the development of the city.***

The house was designed by Edwin Kreisle (1888-1971), who designed local fire stations, schools, churches, stores, and approximately 5,000 houses in Austin, several of which were model homes for the West Austin suburbs. Kreisle graduated from the Bradley Polytechnic Institute in Peoria, Illinois in 1907, and opened his practice in Austin in 1911.

***(6) Relationship to other distinctive buildings, sites or areas which are eligible for preservation according to a plan based on architectural, historical or cultural motif.***

The house is related to other Kreisle houses in the city; it is also an integral part of Aldridge Place, which contains a number of designated historic landmarks, and is a potential historic district.

***(9) Exemplification of the cultural, economic, social, ethnic or historical heritage of the city, state or the United States.***

The Ocie Speer House exemplifies upper middle class housing in Austin in the 1920s. Its Spanish Colonial Revival design, location in Aldridge Place, a City Beautiful-inspired suburb, and its setting all reflect the tastes and lifestyle of the upper middle class at the time.

***(11) Identification with a person or persons who significantly contributed to the culture and development of the city, state or United States.***

Ocie Speer (1869-1959) commissioned the construction of this house in 1926. Speer was born near Alvarado, Texas but grew up in Fisher County. He was admitted to the Texas Bar in 1890 and served as Fisher County Attorney for two years before moving to Bowie, Texas, where he opened up a private law practice with his younger brother. He wrote A Treatise on the Law of Married Women in Texas in 1901, which was the premier work on the subject of married women's property rights in Texas. Speer moved to Fort Worth in 1902 where he served as an associate justice of the Court of Civil Appeals until 1914. He authored an opinion which allowed a woman to be appointed to a vacant civil office and to make binding contracts for bonds. His legal opinions on women's rights helped paved the way for female equality in Texas, and Ma Ferguson's run for the governorship. She rewarded Speer with a slot on the Texas Supreme Court, where he served as an associate justice on the Commission of Appeals from 1925 until 1929. He returned to private practice with an office in the Norwood Building from 1929 to 1933, and wrote A Treatise on the Law of Special Issues in Texas in 1931. He served as counsel to the State Banking Commissioner from 1933 to 1939, and published Texas Jurists, a

volume of biographical sketches of members of the Texas judicial system. From the proceeds of the sale of this book, he commissioned portraits of Texas Supreme Court justices and Court of Criminal Appeals justices for the Supreme Court building. Speer was appointed assistant attorney general in 1939, and argued the case concerning the Tidelands controversy, which eventually returned 2.5 million acres of oil-rich land submerged in the Gulf of Mexico to state jurisdiction. He wrote over 2,700 legal opinions, several treatises, and was considered a leading authority on Texas constitutional law.

Speer sold the house to his daughter and her husband in 1947. His daughter died in 1949, and the house passed out of the family.

**Paul van Buren** resided in the house from 1960 to 1965, when it was owned by the Episcopal Theological Seminary of the Southwest. Van Buren was a noted theologian associated with the "death of God" movement of the 1960s, which advocated that God became Jesus, and when Jesus was crucified, God died as well. Van Buren published several works on theology and Jewish-Christian relations. After he left Austin in 1965, Van Buren became the chair of the Department of Religion at Temple University.

**Walter Meyer** purchased the property from the seminary in 1968. He and his wife operated the Hansel and Gretel Restaurant on W. 30<sup>th</sup> Street. In addition, Meyer served as an interpreter for President Johnson, practiced psychology, and taught at the University of Texas. He helped found the Center for International Education at UT in 1963. The Meyers sold the property to the current owners in 1976.

*(12) A building or structure that because of its location has become of value to a neighborhood, community area, or the city.*

The house is prominently sited in Aldridge Place and adjacent to the Robertson-Trice House, a designated city historic landmark.

**PARCEL NO.:** 02180413110000

**DEED RECORD:** Vol. 5649, p. 2079

**ANNUAL TAX ABATEMENT:** \$7,913 (owner-occupied rate – all taxing authorities)  
City abatement: \$2,099.

**APPRAISED VALUE:** \$543,968

**PRESENT USE:** Residential

**CONSTRUCTION/DESCRIPTION:** Two-story rectangular-plan side-gabled Spanish Colonial Revival-styled residence with stucco walls, a red tile roof, shed-roofed entry porch with round-arched opening, 1:1 fenestration and casement windows in round-arched openings; prominent external stucco chimney with decorative iron work.

**CONDITION:** Excellent

**PRESENT OWNERS**

Clarke and Joan Burnham  
108 W. 33<sup>rd</sup> Street, 78705

**DATE BUILT:** ca. 1926

**ALTERATIONS/ADDITIONS:** Side porches enclosed, 1970s; two-story rear addition and pool, 1970s.

**ORIGINAL OWNER(S):** Ocie Speer (1926)

**OTHER HISTORICAL DESIGNATIONS:**

NATIONAL REGISTER: No

RECORDED TEXAS LANDMARK: No

NATIONAL LANDMARK: No

LOCAL SURVEYS: Yes, the house is listed in the Comprehensive Cultural Resources Survey (1984), but with no preservation priority.

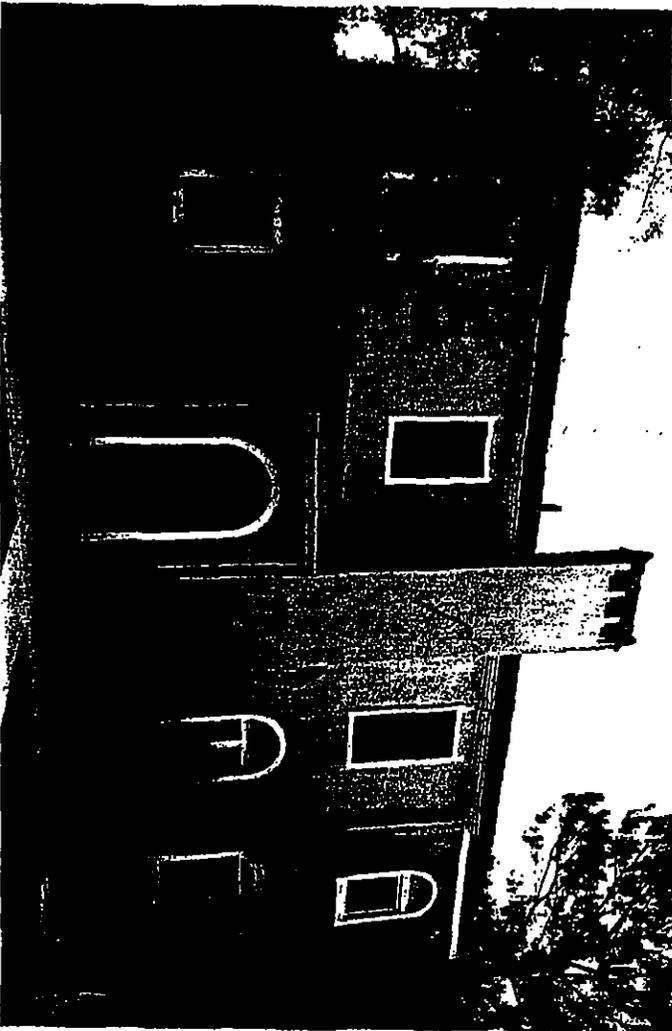


 1" = 200'	SUBJECT TRACT 	<b>HISTORIC ZONING</b>		<b>CITY GRID REFERENCE NUMBER</b> J25	
	PENDING CASE 	<b>CASE #:</b> C14H-04-0002			
	ZONING BOUNDARY 	<b>ADDRESS:</b> 108 WEST 33RD ST			<b>DATE:</b> 04-02
	CASE MGR: S. SADOWSKY	<b>SUBJECT AREA (acres):</b> N/A			<b>INTLS:</b> SM

Ocie Speer House  
108 West 33rd Street, Austin

Front elevation

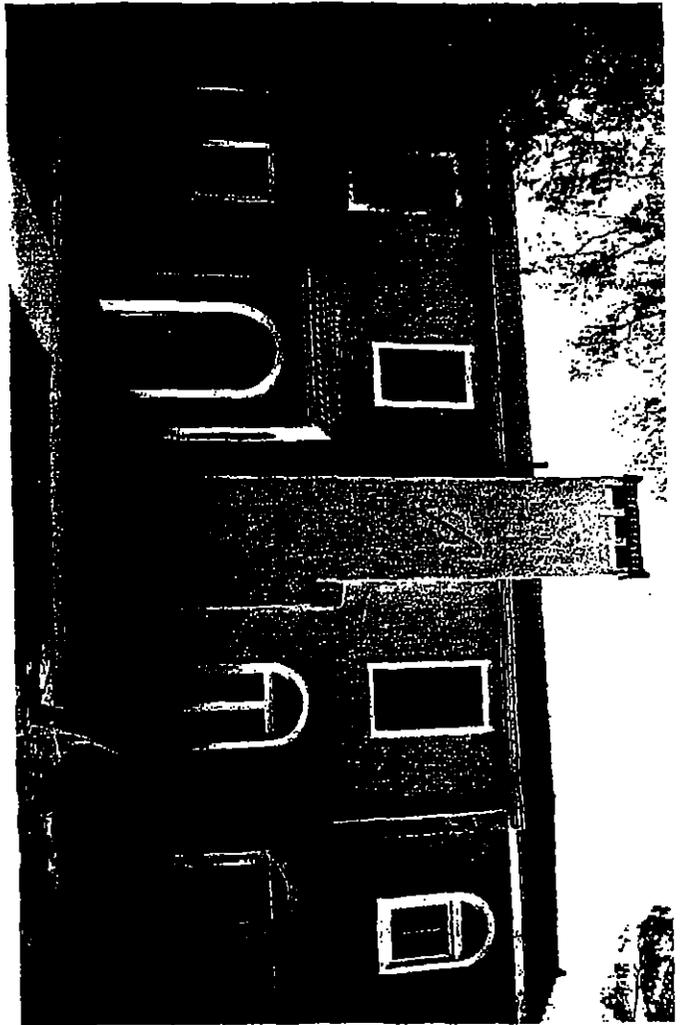
Front elevation



Ocie Speer House  
108 West 33rd Street, Austin

Front elevation

Front elevation (west end) with rear of  
garage at far west



# A. APPLICATION FOR HISTORIC ZONING

**PROJECT INFORMATION:**

*230400*



**BASIC PROJECT DATA:**

1. OWNER'S NAME: Clarke and Joan Burnham

2. PROJECT NAME: Ocie Speer House

3. PROJECT STREET ADDRESS (or Range): 108 West 33rd Street  
 ZIP 78705 COUNTY: Travis

IF PROJECT ADDRESS CANNOT BE DEFINED ABOVE:  
 LOCATED \_\_\_\_\_ FRONTAGE FEET ALONG THE N. S. E. W. (CIRCLE ONE) SIDE OF  
 APPROXIMATELY \_\_\_\_\_ (ROAD NAME PROPERTY FRONTS ONTO), WHICH IS  
 INTERSECTION WITH \_\_\_\_\_ DISTANCE FROM ITS  
 \_\_\_\_\_ CROSS STREET.

**AREA TO BE REZONED:**

4. ACRES \_\_\_\_\_ (OR) SQ.FT. \_\_\_\_\_

5. ZONING AND LAND USE INFORMATION:

EXISTING ZONING	EXISTING USE	TRACT# (IF MORE THAN 1)	ACRES / SQ. FT.	PROPOSED USE	PROPOSED ZONING
<u>SF-3</u>	<u>residential</u>	_____	_____	<u>residential</u>	<u>SF-3-H</u>
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

**RELATED CURRENT CASES:**

6. ACTIVE ZONING CASE? (YES / <u>NO</u> )	FILE NUMBER: _____
7. RESTRICTIVE COVENANT? (YES / <u>NO</u> )	FILE NUMBER: _____
8. SUBDIVISION? (YES / <u>NO</u> )	FILE NUMBER: _____
9. SITE PLAN? (YES / <u>NO</u> )	FILE NUMBER: _____

**PROPERTY DESCRIPTION (SUBDIVISION REFERENCE OR METES AND BOUNDS):**

**10a. SUBDIVISION REFERENCE:** Name: Aldridge Place  
Block(s) 1 Lot(s) W 23ft 7 & E 55ft Outlot(s) of 9  
Plat Book: 2:231 Page           
Number:           
**10b. METES AND BOUNDS** (Attach two copies of certified field notes if subdivision reference is not available or zoning includes partial lots)

**DEED REFERENCE CONVEYING PROPERTY TO PRESENT OWNER AND TAX PARCEL I.D.:**

**11. VOLUME:** 5649 **PAGE:** 2079 **TAX PARCEL I.D. NO.** 01280413110000

**OTHER PROVISIONS:**

**12. IS PROPERTY IN A ZONING COMBINING DISTRICT / OVERLAY ZONE?** YES  NO   
TYPE OF COMBINING DIST/OVERLAY ZONE (NCCD, NP, etc)           
**13. LOCATED IN A LOCAL OR NATIONAL REGISTER HISTORIC DISTRICT?** YES  NO   
**14. IS A TIA REQUIRED?** YES  NO  (NOT REQUIRED IF BASE ZONING IS NOT CHANGING)  
TRIPS PER DAY:           
TRAFFIC SERIAL ZONE(S):         

**OWNERSHIP TYPE:**

**15.**  SOLE  COMMUNITY PROPERTY  PARTNERSHIP  CORPORATION  TRUST  
If ownership is other than sole or community property, list individuals/partners/principals below or attach separate sheet.

**OWNER INFORMATION:**

**16. OWNER CONTACT INFORMATION**  
SIGNATURE: *Joan Burnham* NAME: Joan Burnham  
FIRM NAME:          TELEPHONE NUMBER: 371-0900  
STREET ADDRESS: 108 West 33rd Street  
CITY: Austin STATE: TX ZIP CODE: 78705  
EMAIL ADDRESS: jburnham@tifa.org

**AGENT INFORMATION (IF APPLICABLE):**

**17. AGENT CONTACT INFORMATION**  
SIGNATURE: *Amy Dase* NAME: Amy Dase  
FIRM NAME: Prewitt and Associates, Inc. TELEPHONE NUMBER: 459-3349 x224  
STREET ADDRESS: 2105 Donley Drive, Suite 400  
CITY: Austin STATE: TX ZIP CODE: 78758  
CONTACT PERSON: Amy Dase TELEPHONE NUMBER: same  
EMAIL ADDRESS: adase@paiarch.com

**DEPARTMENTAL USE ONLY:**



## E. ACKNOWLEDGMENT FORM

concerning  
Subdivision Plat Notes, Deed Restrictions,  
Restrictive Covenants  
and / or  
Zoning Conditional Overlays

I, Joan Burnham have checked for subdivision plat notes, deed restrictions,  
(Print name of applicant)

restrictive covenants and/or zoning conditional overlays prohibiting certain uses and/or requiring certain development restrictions i.e. height, access, screening etc. on this property, located at

108 West 33rd Street, Austin, Texas  
(Address or Legal Description)

If a conflict should result with the request I am submitting to the City of Austin due to subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional overlays it will be my responsibility to resolve it. I also acknowledge that I understand the implications of use and/or development restrictions that are a result of a subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional overlays.

I understand that if requested, I must provide copies of any and all subdivision plat notes, deed restrictions, restrictive covenants and/or zoning conditional overlay information which may apply to this property.

Joan Burnham  
(Applicant's signature)

01-32-03  
(Date)

Deed Chronology for 108 West 33rd Street, Austin

Grantor/Grantee	Date	Price	Volume/Page
Mrs. Athilia A. Hancock/A. P. Brygan West 23' of Lot 7 & east 55' of Lot 9, Block 1, Aldridge Place with deed restrictions	5-20-1921	\$ 1,950	338: 108
A. P. & Mary Cleo Brogram/Marvin Charlton West 23' of Lot 7 & east 37' of Lot 9, Block 1, Aldridge Place	8-30-1924	\$ 1,700	361: 611
Marvin & Undine Charlton/Charles T. McCormick West 23' of Lot 7 & east 37' of Lot 9, Block 1, Aldridge Place	5-29-1925	\$ 1,950	373: 406
A. P. & Mary Cleo Brogram/Margaret Stiles West 18" of Lot 7 & east 55' of Lot 9 Block 1, Aldridge Place	2-3-1926	\$ 350	385: 557
Charles T. and Irene McCormick/Margaret Stiles West 23' of Lot 7 & east 37' of Lot 9, Block 1, Aldridge Place	2-4-1926	\$ 2,450	385: 554
Margaret Stiles/Ocie Speer West 23' of Lot 7 & east 37' of Lot 9, Block 1, Aldridge Place West 18' of Lot 7 & east 55' of Lot 9, Block 1, Aldridge Place	5-8-1926	\$ 3,500	387: 426
Ocie Speer/Scott Yeamans West 23' of Lot 7 & east 55' of Lot 9, Block 1, Aldridge Place Mechanic's lien for construction of 2-story frame & stucco building Edwin G. Kreisler, architect	6-10-1926	\$ 7,525	368: 539
Ocie Speer/Sallie Esther Thorne West 23' of Lot 7 & east 55' of Lot 9, Block 1, Aldridge Place	7-12-1947	\$ 5,000	856: 181
Sallie Esther Thorne Estate/Lansing S. Thorne West 23' of Lot 7 & east 55' of Lot 9, Block 1, Aldridge Place	10-4-1949	affidavit	947: 426 1013: 421
Lansing S. Thorne/Edwin R. and Carolyn York West 23' of Lot 7 & east 55' of Lot 9, Block 1, Aldridge Place	3-15-1950	\$ 6,000	1022: 506

Edwin R. York Jr./Jack D. & Jewell R. Hudson West 23' of Lot 7 & east 55' of Lot 9, Block 1, Aldridge Place	9-25-1953	\$14,500	1405: 340
Jack D. & Jewell Hudson/Episcopal Seminary of the Southwest West 23' of Lot 7 & east 55' of Lot 9, Block 1, Aldridge Place	12-20-1957	\$15,000	1883: 496
Episcopal Seminary of the Southwest/Walter & Rosa G. Meyer West 23' of Lot 7 & east 55' of Lot 9, Block 1, Aldridge Place	10-1-1968	\$18,800	3557:2052
Walter & Rosa G. Meyer/Clarke A. Burnham & Joan Mandel West 23' of Lot 7 & east 55' of Lot 9, Block 1, Aldridge Place	12-6-1976	\$79,200	5649:2079

Occupancy History for 108 West 33rd Street, Austin

Year	Occupant Name	Address	Occupation and Employer	Source
1927	Ocio and Annie Speer	108 West 33rd Street	associate justice Commission of Appeals, Section B	city directory
1929	Ocio Speer	108 West 33rd Street	Judge Commission of Appeals, Section B	city directory
1932-1933	Ocio Speer	108 West 33rd Street	lawyer	city directory
1935	Ocio Speer	108 West 33rd Street	counsel State Department of Banking	city directory
1937	Ocio Speer	108 West 33rd Street	attorney State Department of Banking	city directory
1939	Ocio Speer	108 West 33rd Street	counsel State Department of Banking	city directory
1940	Ocio Speer	108 West 33rd Street	legal advisor State Department of Banking	city directory
1941	Ocio Speer	108 West 33rd Street	assistant attorney general State of Texas	city directory
1942	Ocio Speer	108 West 33rd Street	assistant attorney general State of Texas	city directory
1944-1945	Ocio Speer	108 West 33rd Street	assistant attorney general State of Texas	city directory
1947	Ocio Speer	108 West 33rd Street	assistant attorney general State of Texas	city directory
1949	Lansing S. Thorne	108 West 33rd Street	claim adjuster Highway Insurance Underwriters	city directory
1952	Mrs. Carolyn R. York	108 West 33rd Street	(widow of Edwin R. York Sr.)	city directory
1953	Edwin R. York Jr.	108 West 33rd Street	student (son of Edwin R. and Carolyn York)	city directory

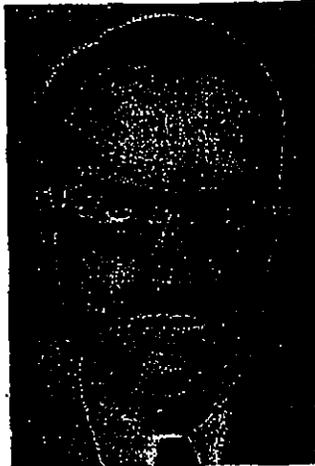
1954	Jack D. and Jewell R. Hudson	108 West 33rd Street	University of Texas	city directory
			training officer U.S. Veterans Administration	
1955	Jack D. and Jewell R. Hudson	108 West 33rd Street	training officer U.S. Veterans Administration	city directory
1967	Jack D. and Jewell R. Hudson	108 West 33rd Street	training officer U.S. Veterans Administration	city directory
1958	Jack D. and Jewell R. Hudson	108 West 33rd Street	training officer U.S. Veterans Administration	city directory
1959	Jack D. and Jewell R. Hudson	108 West 33rd Street	counselor Texas Education Agency	city directory
1960	Paul M. and Anne H. van Buren	108 West 33rd Street	assistant principal Episcopal Theological Seminary of the Southwest	city directory
1961	Paul M. and Anne H. van Buren	108 West 33rd Street	assistant principal Episcopal Theological Seminary of the Southwest	city directory
1982	Paul M. and Anne H. van Buren	108 West 33rd Street	assistant principal Episcopal Theological Seminary of the Southwest	city directory
1983	Paul M. and Anne H. van Buren	108 West 33rd Street	professor Episcopal Theological Seminary of the Southwest	city directory
1984	Paul M. and Anne H. van Buren	108 West 33rd Street	professor Episcopal Theological Seminary of the Southwest	city directory
1965	Dean E. and Phyllis J. McKann	108 West 33rd Street	controller Episcopal Theological Seminary of the Southwest	city directory
1986	Dean E. and Phyllis J. McKann	108 West 33rd Street	controller Episcopal Theological Seminary of the Southwest	city directory
1967	Dean E. and Phyllis J. McKann	108 West 33rd Street	controller Episcopal Theological Seminary of the Southwest	city directory

1968	vacant				
1969	Walter and Rosa G. Meyer	108 West 33rd Street	associate Walter Jenkins	city directory	
1970	Walter and Rosa G. Meyer	108 West 33rd Street	associate Walter Jenkins	city directory	
1971	Walter and Rosa G. Meyer	108 West 33rd Street	Hansel & Gretel Restaurant 409 West 30th Street	city directory	
1972	Walter and Rosa G. Meyer	108 West 33rd Street	Hansel & Gretel Restaurant 409 West 30th Street	city directory	
1973	Walter and Rosa G. Meyer	108 West 33rd Street	Hansel & Gretel Restaurant 409 West 30th Street	city directory	
1974	Walter and Rosa G. Meyer	108 West 33rd Street	Hansel & Gretel Restaurant 409 West 30th Street	city directory	
1975	Walter and Rosa G. Meyer	108 West 33rd Street	Hansel & Gretel Restaurant 409 West 30th Street	city directory	
1976	Walter and Rosa G. Meyer	108 West 33rd Street	Hansel & Gretel Restaurant 409 West 30th Street	city directory	
1977	Clarke Burnham	108 West 33rd Street		city directory	
1978- present	Clarke A. and Joan G. Burnham	108 West 33rd Street	associate professor	city directory	



ROBERT L. SONFIELD

Robert L. Sonfield, born Nacogdoches, Texas, 1893. Admitted to bar, 1914, Texas. Educated University of Texas and Columbia University. Practiced Beaumont, Texas, 1916-17; Houston since 1919. United States Commissioner, 1916-17. Lieutenant 143rd Infantry, 38th Division, A. E. F. Captain United States Infantry Reserve Corps. Member Interallied Commission and American Military Mission, Berlin, Germany, 1918-19. Member Houston, Texas and American Bar Associations; Masons (Shrine), American Legion. Married, two sons. Office, Houston, Texas.



J. R. SORRELL

J. R. Sorrell, born Devine, Texas, 1897. Admitted to bar, 1921, Texas. Educated University of Texas, A. B., LL. B., 1921. Practiced Corpus Christi since 1921. Member Hubbard, Dyer & Sorrell, Assistant District Attorney, Nueces County, since 1923. Member Nueces County and Texas Bar Associations; Masons. Married. Office, Corpus, Christi, Texas.



OCIE SPEER

Ocie Speer, born Johnson County, Texas, 1889. Admitted to bar, 1890, Texas. Practiced Fisher County, 1890-1902; Fort Worth, 1914-25; Austin since 1929. Associate Justice, Court of Civil Appeals, 2nd Supreme Judicial District, 1922-14; Judge, Supreme Court Commission of Appeals, 1925-29; Counsel, Banking Commissioner of Texas since 1933. Member Travis County and Texas Bar Associations. Four daughters. Office, Austin, Texas.



DAVID TARLTON STAFFORD

David Tarlton Stafford, born Franklin, Louisiana, 1899. Admitted to bar, 1922, Texas. Educated University of Texas, LL. B., 1922. Associate Masons, Lipscomb, White & Seay. Lieutenant Air Corps, United States Army, World War. Captain 112th Cavalry, Texas National Guard. Member Phi Gamma Delta, Delta Phi Delta; Dallas, Texas and American Bar Associations; Knights of Columbus. One son. Office, Dallas, Texas.



HAROLD K. STANARD

Harold K. Stanard, born Jefferson City, Mo., 1898. Admitted to bar, 1924, Texas. Educated Baylor University, A. B., 1921; University of Texas, LL. B., 1924. Practiced San Antonio since 1924. Member Birkhead, Beckmann, Stanard & Vance. Lieutenant, Infantry, United States Army, World War. Member Delta Kappa Epsilon, Phi Delta Phi, Chancellors; San Antonio and Texas Bar Associations. Married, one daughter and two sons. Office, San Antonio, Texas.



HARRY M. STANFIELD

Harry M. Stanfield, born Mayfield Kentucky, 1911. Admitted to bar, 1935, Texas. Educated Vanderbilt University, A. B., 1932; Yale University, LL. B., 1935. Practiced Dallas since 1935. Associate Leake, Henry & Young. Member Delta Kappa Epsilon; Dallas, Dallas Junior and Texas Bar Associations; Masons (Shrine, K. T.). Office, Dallas, Texas.

# TEXAS BAR JOURNAL

Vol. VIII

MAY, 1945

No. 5



**JUDGE OCIE SPEER**

(See Page 200)

# Judge Ocie Speer

To Whom This Issue of The Journal Is Dedicated

This is the story of a man who has spent at least fifty-five of his seventy-six years serving the public. The story of a boy educated in country public schools who has grown to be one of the leading authorities in Texas on constitutional law. The story of a man several years past normal retiring age who is still actively filling an important job in Texas government.

This is the story of Judge Ocie Speer, Assistant Attorney General of Texas, to whom this issue of the TEXAS BAR JOURNAL is dedicated.

Born April 1, 1869, in Johnson County to Sallie Ellis and D. Speer, he received his education in country public schools and studied privately by kerosene lamp under his father, an early-day school teacher. With that beginning, he grew up to be one of the best known lawyers of Texas.

After being admitted to the Texas bar in March, 1890, he began his practice of law in Bowie, where he stayed for two years. From 1902 until 1914 he served as Associate Justice of the Court of Civil Appeals in Fort Worth. From 1914 until 1925 he practiced law in Fort Worth. From 1925 until 1929 he was a member of the Commission of Appeals to the Supreme Court of Texas. From then until 1933 he was in the private practice of law in Austin. From 1933 to 1939 he was Counsel to the Banking Commissioner of Texas, and in 1939 Attorney General Gerald C. Mann appointed him Assistant Attorney General of Texas, a position he is now holding under Attorney General Grover Sellers.

On December 18, 1891, Judge Speer married the former Annie Milner, and they had four children: Floride, Esther, Annola, and Margaret.

Associates and friends of Judge Speer like to recall many incidents about him. Judge Marvin H. Brown, Associate Justice of the Fort Worth Court of Civil Appeals,

who was in partnership with Judge Speer in 1918, tells this one:

"When Judge Ocie Speer and I were partners, I was trying a case in the 48th District Court, and during the morning session opposing counsel was reading a number of opinions to sustain his contention. He deliberately saved back one case, and before presenting it, told the court, with much gusto, that he would next present a case the opinion in which was written by the senior member of the firm of opposing counsel.

"Court adjourned for lunch, and I immediately reported the matter to Judge Speer. With a smile he reached up and pulled down a subsequently published volume of the Southwestern Reporter, handed it to me, and said:

"When you answer counsel, tell him and the Court that the opinion he relies upon was perfectly good law from the day it was handed down until the Supreme Court reversed and rendered the case as disclosed by its opinion."

At Bowie Judge Speer and his brother, Judge John Speer, now Associate Justice of the Fort Worth Court of Civil Appeals, practiced together. Judge John, who is four years younger than Judge Ocie, says, "I was alone in the office one day when a client came in and asked to see Mr. Speer. I told him my name was Speer and invited him to have a seat. The client took a good look at me and said, 'I want to see the lawyer.' I told him that I was a lawyer and inquired about his business. He looked me over again and said, 'Well, I think it's your Pa I want to see.'"

At a recent State Bar meeting a group of lawyers and judges had gathered in a hotel lobby. Among them were Judges Ocie Speer, W. N. Stokes of the Amarillo court, and John Speer. Judge Stokes jokingly said that the reason he and John had fallen short of educational advantages had by others was because they had their early training under Judge Ocie Speer in

(Continued on Page 229)

## Would You Like to Be a G-Man?

If you are twenty-five years or older, but not yet forty, then you are eligible to apply for position of Special Agent with the Federal Bureau of Investigation. Other than the age limit, requirements are that applicants must be citizens of the United States, and graduates from accredited law schools and possess membership in the Bar, or graduates from accredited accounting schools with three years of practical commercial accounting or auditing experience.

Since the national emergency has existed, Special Agents of the F. B. I. have been charged with the responsibility of protecting the internal security of the United States. In addition to the investigation of hundreds of cases involving possible violations of the espionage and sabotage statutes, the Special Agents have continued to investigate violations of the federal statutes within its investigative jurisdiction. Some of the most prominent statutes enforced by this organization are the Federal Kidnapping Statute, Federal Bank Robbery Statute, the National Motor Vehicle Theft Act, the White Slave Traffic Act, the Act prohibiting the impersonation of Governmental employees, and the National Bankruptcy Act.

Application forms for the position of Special Agent may be secured by addressing communications to Mr. M. W. Acers, Special Agent in Charge, Post Office Box 1680, San Antonio, Texas.

### JUDGE OCIE SPEER—

(Continued from Page 209)

an East Texas country school. Judge Speer replied, "Needham (Judge Stokes) and John waited until they were fifteen years old before starting to school," and that he had done the best he could with them, under the circumstances.

Judge Speer, who is generally regarded as perhaps the leading authority on Texas Constitutional and governmental powers, likes to play chess, keep bees, and breed pigeons.

Practicing law and serving the public has kept him busy for fifty-five years, but during that period, Judge Speer has taken time off to write several books.

His first textbook, a treatise on "Marital Rights in Texas," was published in 1901. He had no idea of writing a book but his notes on the subject grew until some of his friends asked him to have them published. Before starting his notes, the County Treasurer of Montague County had been stricken with apoplexy and lingered in an unconscious condition for several months. The Commissioners' Court asked Judge Speer to give them an opinion upon whether the Court could declare the office vacant and appoint the Treasurer's wife to the office. This, of course, was long before female suffrage was legalized in Texas.

Judge Speer studied carefully two phases of the question asked: (1) Could a married woman, who could not vote, and perhaps could not be elected to hold public office, be so appointed to office? And (2) if she were appointed, could she make a binding contract for the necessary official bond? Judge Speer prepared and presented to the Court his written opinion in the form of a typewritten brief. He concluded that she could be appointed and could make the necessary bond. The Court acted upon the opinion and Mrs. Beauchamp became the first married woman in Texas to hold an elective office.

Judge Speer became interested in his subject to the extent that he pursued his investigation further, and a broader field of the legal rights of married women was envisioned by him. The third edition of his book carried the "Preface to First Edition." The date of that preface is April 1, 1901, and incidentally, the date was his thirty-second birthday.

Other books Judge Speer has written include "Law of Marital Rights in Texas," 1916; "A Texas Brief with Annotations," 1925; "Law of Special Issues in Texas," 1932; "Supplement, Law of Special Issues in Texas," 1939; and "Texas Jurists," 1936.

His book "Texas Jurists" met a long-felt need for something that would preserve to posterity the names and portraits of the judges of our appellate courts. He has included Justices from Collinsworth to Cureton of the Supreme Court, all Justices of the Courts of Civil Appeals, for-

mer Attorney Generals of Texas and United States District Judges sitting in Texas, as well as Texas authors and editors of Texas lawbooks and a list of Special Justices and Judges of Appellate Courts.

Judge Speer also sponsored the painting of the portraits of the Justices of the Supreme Court, the Judges of the Court of Criminal Appeals, and the Commissioners to those courts, which were donated to the Courts a few years ago. There were almost one hundred canvases.

Today Judge Speer is carrying on with his work in the Attorney General's office and at seventy-six is still giving his time unstintingly to the public.

### Court Cites Bar Journal

The Advisory Opinions on the Rules of Practice and Procedure, published as the January, 1945, issue of the TEXAS BAR JOURNAL, have been cited by an appellate court.

In the case of Croan v. McKinney et al., 185 S. W. 2d 768 (S. W. Advance Sheet for April 3, 1945) Chief Justice Hall of the Texarkana Court of Civil Appeals said:

"The above holding, in our opinion, finds direct support in the Advisory Opinions of Sub-committee on Interpretations of Texas Rules of Practice and Procedure in Civil Cases, as shown on Pages 6, 9, and 47 of the January issue of the TEXAS BAR JOURNAL."

### FEDERAL GOVERNMENT: SIMMONS—

(Continued from Page 211)

has neither time nor experience, even if it has the capacity, to investigate, and legislate in detail, on all the multitude of matters with which bureaucracy concerns itself. As Robert H. Jackson, then Attorney General, said in 1941:

Serious practical consequences wait upon the distribution of power between the President and the Congress. When the Court held that NIRA code-making could not be delegated to the President and the executive agencies, it destroyed any possibility of the code technique in industry, for everybody recognized the impossibility of Congressional action on hundreds of codes.

### Bureaus Now Enact More Legislation Congress

In other words, the standard excuse for the failure of Congress to act, the justification for giving broad legislative powers to the executive department is that Congress is so weighed down most of the legislative functions must be performed by somebody else after Congress has granted in broad terms the general authority in a particular field. It is that is an afterthought. Because the bureaus now enact ten times as much legislation as Congress, and because Congress itself is swamped with such legislation it is enacting, it is easy to say that the possibility of performing the task necessitated giving legislative powers to a hundred alphabetical agencies, although NIRA code-making fell by the wayside.

Someone may say that the increasing complexity of life in our society has made necessary vastly increased legislation. It is a familiar with the cases which, little by little, have justified the executive encroachment upon the powers of the legislative and judicial departments. In the absence, the dictum of the bureaucrats has been accepted: That the legislative task is beyond the power of Congress and the judicial task beyond the power of courts, at least in those lesser fields that now govern ninety percent of the activities of the people.

I deny this dictum and believe that Congress has unwittingly defaulted in its obligation to the people. Does this have a strange sound? Everyone else is denouncing the executive for grasping at power. Who created the agencies? The Congress. Who appropriated the money to fund them? The Congress. Who gave them the power to make laws governing the liberty and property of the citizens? The Congress. Who inserted in those laws that there should be no appeal in the average case from their bureaucratic courts? The Congress. Who provided that if there was any evidence to sustain the finding of a bureaucrat, the finding should be final and binding upon the courts? The Congress.

### Growth of Agency Jurisdiction and Personnel

The groups and blocs which secured the enactment of the great variety of legislation setting up a hundred different bureaus to regulate a hundred different activities